



an FIR came to be instituted in the year 2013 with respect to the predicate offences in which petitioner was also made an accused. It is next submitted that the ED came into picture in the year 2016 when an ECIR was instituted. It is further submitted that petitioner was called by the ED during the course of investigation and the petitioner cooperated in the investigation all throughout i.e. the petitioner cooperated with the ED in the investigation from 2016 till 2022 i.e. when the complaint came to be filed. It is further submitted that the ED during the course of investigation never felt the need of arresting the petitioner. It is next submitted that since ED during the course of investigation never felt the need of arresting the petitioner whether it would be prudent for this Court to send the petitioner to jail based on cognizance which came to be taken based on the complaint which was filed by the ED after investigation in the year 2022.

4. The learned counsel for the petitioner draws the attention of this Court to Annexure-8 of the anticipation bail application to submits that that the Hon'ble Supreme Court in the case of *Tarsem Lal vs. Directorate of Enforcement, Jalandhar Zonal Office (Criminal Appeal No.2608 of 2024 along with other Criminal Appeals and SLP)* was considering



the cases of accused, who were not arrested after registration of the ECIR till Special Court took cognizance under the PMLA of an offence punishable under Section 4 of the PMLA. The cognizance was taken on the complaint filed under Section 44(1)(b) of the PMLA.

5. The learned counsel for the petitioner next submits that the Hon'ble Supreme Court in sum and substance decided that once an ECIR is filed and the accused is not arrested during the course of investigation and thereafter cognizance is taken based on the complaint filed by the ED in that event, the ED loses its power to arrest the accused without seeking permission of the Special Court. It is next submitted that in the instant case also an FIR was instituted for the predicate offence based on which the instant ECIR was instituted and the petitioner during the course of investigation always cooperated with the ED and the ED never felt the need of arresting the petitioner, thereafter the complaint came to be filed based on which cognizance was taken, thus, the petitioner apprehends his arrest and hence has moved this Court seeking anticipatory bail.

6. The learned counsel appearing on behalf of the petitioner reiterates and submits that since ED never felt the need of arresting the petitioner during the course of



investigation whether it would be prudent for this Court to send the petitioner to jail based on an order of cognizance which came to be taken based on the complaint filed by the ED.

7. It is further submitted that the case be disposed of in terms of the order dated 16.05.2024 in Criminal Appeal No.2608 of 2024 decided by the Hon'ble Supreme Court in the case of Tarsem Lal vs. the Directorate of Enforcement, Jalandhar Zonal Office.

8. The learned counsel appearing on behalf of the Enforcement Directorate is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that ED during the course of investigation never felt the need of arresting the petitioner and after cognizance is taken of the offence punishable under Section 4 of the PMLA based on a complaint under Section 44(1)(b) of the PMLA, the ED and its officers are powerless to exercise power under Section 19 of the PMLA to arrest a person shown as an accused in the complaint.

9. In view of the submissions made by the learned counsel appearing on behalf of the petitioner, the instant anticipatory bail application is disposed of in terms of order dated 16.05.2024 passed by the Hon'ble Supreme Court in



Criminal Appeal No.2608 of 2024.

10. The learned Trial Court is directed to strictly adhere to the directions contained in the order dated 16.05.2024 passed by the Hon'ble Supreme Court in Criminal Appeal No. 2608 of 2024 (Tarsem Lal vs. the Directorate of Enforcement, Jalandhar Zonal Office).

**(Satyavrat Verma, J)**

Rishabh/-

U		T	
---	--	---	--

